




## CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 9, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0070

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to the Complainant's residence for a civil standby request made by Community Member #1 (CM#1)—the Complainant's ex-boyfriend—to collect CM#1's belongings. The Complainant alleged the named employees rudely spoke to Community Member #2 (CM#2)—her current boyfriend—and favored CM#1 because CM#2 was Black.

### **ADMINISTRATIVE NOTE:**

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

### **SUMMARY OF INVESTIGATION:**

#### **A. Blue Team OPA Complaint & Complainant Interview**

OPA received a Blue Team complaint from Witness Supervisor #1 (WS#1), the named employee supervisor, summarizing the Complainant's allegations. WS#1 wrote that CM#1 went unannounced to the Complainant's apartment to gather his belongings. The Complainant called 9-1-1, and CM#1 left. While NE#1 and NE#2 were en route, CM#1 also called 9-1-1 to request a civil standby. The named employees arrived for the civil standby as CM#1



collected his things. The Complainant alleged that the named employees spoke rudely to CM#2 but not her. The Complainant believed the named employees mistreated CM#2 because he was Black.

OPA interviewed the Complainant. The Complainant alleged that the named employees favored CM#1 over her and CM#2. Specifically, she noted that their body language and demeanor with CM#1 suggested they favored him. The Complainant said the named employees were not rude, nor did they use disparaging language. When asked to clarify why she felt the named employees were unprofessional with CM#2, she said they were “just making it seem like [CM#2] should stay out [of the situation].” The Complainant said she was angry when she made the complaint but no longer wanted OPA to investigate the matter.

### **B. Body-Worn Video (BWV)**

OPA reviewed the named employees’ BWV, covering their interactions with the parties. In relevant part, BWV showed:

NE#1 contacted the Complainant at her apartment and explained that CM#1 wanted to retrieve his belongings. NE#2 suggested that the Complainant place CM#1’s things outside while he and NE#1 ensured CM#1 did not cause a disturbance.

The Complainant and CM#2 became upset. NE#1 asked the Complainant why she was upset. The Complainant did not reply, but CM#2 answered for her. NE#1 asked CM#2 to let the Complainant answer. CM#2 said the Complainant was sick and very upset, so he was trying to help. When CM#2 would not stop talking for the Complainant, NE#2 asked the Complainant to speak with them privately.

Privately, the Complainant told NE#1 she feared CM#1 would take her dog if he entered the apartment. NE#1 reassured her that CM#1 would not take the dog, and the Complainant agreed to put CM#1’s things outside.

NE#2 spoke to CM#2. CM#2 alleged that CM#1 intended to break into their home and only called 9-1-1 after the Complainant’s initial call. NE#2 replied that he only knew that CM#1 called 9-1-1 for help retrieving his belongings. CM#2 countered that he and the Complainant called CM#1 and informed CM#1 that they had called the police. NE#2 replied that regardless of the underlying situation, the named employees were there to facilitate the return of CM#1’s things. NE#2 and CM#2 went back and forth about whether the Complainant and CM#2 should seek a protective order against CM#1. As they talked over one another, NE#2 replied, “I’m gonna tell you one more time. I can talk to you like a reasonable person, or I’m not gonna talk to you at all.” CM#2 continued to interrupt, and NE#2 replied, “We can be done.”

NE#1, CM#2, and the Complainant started putting CM#1’s things outside. NE#1 then received a high-priority call and told the Complainant she needed to leave. Before departing, NE#1 told the Complainant that CM#1 was still on the lease and had a legal right to be at the apartment. CM#2 yelled at NE#1, who walked away.



As NE#1 left, she returned CM#1's property to him. CM#2 approached CM#1. NE#1 told CM#2 to return to the apartment, but CM#2 refused. CM#1 and CM#2 yelled at each other. NE#1 told CM#2 to back up, and CM#2 responded, "No." NE#1 instructed CM#1 to go to his vehicle.

CM#2 returned to the apartment, and NE#1 spoke with him again. CM#2 alleged that NE#1 "invited" CM#1 to return to the apartment. NE#1 explained that she was merely informing the Complainant of CM#1's legal right to access the apartment. CM#2 and NE#1 both apologized for the misunderstanding.

NE#1 and NE#2 stayed at the scene until CM#1 left, and the Complainant and CM#2 reentered the apartment.

### **C. Incident Reports**

OPA reviewed the incident report authored by NE#1. NE#1's incident report was consistent with her BWV.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegation #1**

#### ***5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional***

The Complainant alleged that NE#1 was rude to CM#2.

SPD employees must "strive to be professional." SPD Policy 5.001-POL-10. Further, "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers," whether on or off duty. *Id.* Additionally, employees must "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." *Id.* Last, "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person." *Id.*

Here, NE#1 responded to an emotionally charged civil standby where the Complainant feared her ex-boyfriend, CM#1. NE#1 appeared to handle the call with a "problem-solving" mindset to facilitate the return of CM#1's property so that the parties could separate. OPA did not observe NE#1 using derogatory or contemptuous language with the Complainant or CM#2. Instead, NE#1 helped the Complainant and CM#2 move boxes of CM#1's belongings from the apartment. When CM#2 became upset about CM#1's presence, NE#1 de-escalated and apologized.

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**



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**Named Employee #1 - Allegation #2**

***5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

The Complainant alleged that NE#1 was rude to CM#2 because CM#2 was Black.

SPD prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. This includes different treatments based on the race of the subject. *See id.*

As discussed at Named Employee #1 - Allegation #1, NE#1 was not rude toward CM#2. While NE#1 struggled to speak with CM#2, who talked over her, NE#1 de-escalated CM#2, and both parties apologized for the misunderstanding. OPA did not observe NE#1 saying anything concerning CM#2’s race, nor did the evidence suggest she took adverse action against CM#2 because of his race. Instead, NE# addressed CM#2 differently than CM#1 because CM#2 was significantly more escalated than CM#1.

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #2 - Allegation #1**

***5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional***

The Complainant alleged that NE#1 was rude to CM#2.

Here, CM#2 was argumentative and escalated while speaking to NE#2. OPA did not observe NE#2 using derogatory or contemptuous language towards the Complainant or CM#2. Instead, NE#2 told CM#2 how to get a protection order against CM#1, which CM#2 did not appreciate. NE#2 opted to end the conversation when it appeared to escalate CM#2.

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #2 - Allegation #2**

***5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

The Complainant alleged that NE#2 was rude towards CM#2 because CM#2 was Black.

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**